Application No. 09/912,401

Docket No. CTX-171RCE

REMARKS

Claims 1-33 were presented for examination. Claims 1-13 are rejected and claims 14-33 were restricted from examination. In the present amendment, claims 1-33 have been canceled and claims 34-63 have been added. No new matter has been introduced. Support for the new claims can found be in paragraphs 35-37, Figures 2, 3A-3B and 7, and throughout the remainder of the specification. Upon entry of the present amendment, claims 34-63 will be currently pending in this application, of which claims 34 and 49 are independent. Applicants submit that claims 34-63 are in condition for allowance.

The following comments address all stated grounds of rejection. Applicants respectfully traverse all rejections and urge the Examiner to pass the claims to allowance in view of the remarks set forth below.

PATENTABILITY OF NEW CLAIMS

A. New Independent Claims 34 and 49 Patentable over Colyer, Phaal and Shabtay

New independent claims 34 and 49 are directed towards a method and system claim respectively for maximizing throughput of a server while avoiding overload of the server. These independent claims recite an interface unit transmitting client requests to a server to maintain performance of server throughput within a predetermined threshold range and intercepting a request from a client to open a transport layer connection with the server. The claims also recite the interface unit determining from monitoring responses to client requests that the performance of the server throughput the predetermined threshold range, buffering in a queue the intercepted request in response to the determination, and transmitting the buffered request upon determining that the server's throughput performance is within the predetermined threshold range.

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Applicants submit that neither Colyer, Phaal, nor Takahashi disclose, teach or suggest each and every element of the claimed invention.

In the claimed invention, an interface unit transmits client requests to a server to maintain performance of server throughput within a predetermined threshold range and buffers a request upon determining from monitoring responses to client requests that the performance of server throughput exceeds the predetermined threshold range. Colyer, Phaal, and Shabtay, alone or in combination, do not disclose, teach or suggest this feature of the claimed invention. Rather, Colyer describes a server requesting from an interface unit another client request when the server completes the processing of a previous request and determines it is idle. Colyer only transmits the next request upon receiving a specific request from the server. As such, Colyer only finds out the server is idle upon receipt of this specific request from the server. Also in contrast to the claimed invention, Phaal describes an admission control gateway providing priority processing to a server. Instead of monitoring responses to client requests to determine the performance of server throughput, the monitor of Phaal sends specific protocol requests to the server to determine the use of server resources (See Phaal, col. 6, lines 13-24). With respect to Shabtay, the Examiner had cited Shabtay only for the purpose of suggesting one of ordinarily skill in the art might modify Phaal to buffer client requests. As such, none of the cited references, alone or in combination, disclose, teach or suggest transmitting client request to a server to maintain performance of server throughput within a predetermined threshold range and buffering a request upon determining from monitoring responses to client requests that the performance of server throughput exceeds the predetermined threshold range.

Because Colyer, Phaal nor Shabtay, alone or in combination, fails to disclose, teach or suggest each and every element of the claimed invention, Applicants submit independent claims

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34 and 49 are patentable and in condition for allowance. Claims 35-48 depend on and incorporate all the patentable limitations of claim 34, and claims 50-63 depend on and incorporate all the patentable limitations of claim 24. Therefore, Applicants also submit that claims 35-48 and 50-63 are patentable and in condition for allowance.
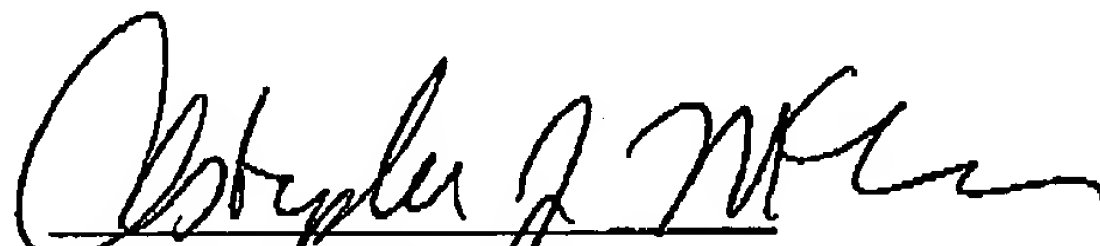
CONCLUSION

In light of the aforementioned amendments and arguments, Applicants contend that each of the Examiners rejections has been adequately addressed and all of the pending claims are in condition for allowance. Accordingly, Applicants respectfully request allowance of all of the pending claims.

Should the Examiner feel that a telephone conference with Applicants' attorney would expedite prosecution of this application, the Examiner is urged to contact the Applicants' attorney at the telephone number identified below.

Respectfully submitted,

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Dated: July 24, 2006

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